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10/518,395	01/09/2006	Lothar Gochlich	08997.0005	8215

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EXAMINER

MAYO III, WILLIAM H

ART UNIT	PAPER NUMBER
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2831

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/518,395

Applicant(s)

GOEHLICH, LOTHAR

Examiner

William H. Mayo III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 120. The National US Application Number PCT/EP02/07077, being filed on June 26, 2002.

Drawings

2. The drawings were received on December 6, 2006. These drawings are approved.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 30-33, 36-37, 39-44, 46, 49, 54-55, and 58-59 are rejected under 35 U.S.C. 102(b) as being anticipated by Goehlich et al (Pat Num EP 1170846, herein referred to as Goehlich). Goehlich discloses a method of building a termination of an electrical cable (CA) (CA) (Fig 2) wherein the cost of manufacturing the outdoor termination and the amount of maintenance work can be reduced (abstract). Specifically, with respect to claim 30, Goehlich discloses a method of terminating an

electrical cable (CA) comprising a termination (OT) comprises an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58). With respect to claim 31, Goehlich discloses the method of placing the volume change compensation member (1) into the cavity is performed before the step of filling in the insulating material (3, i.e. air exist there before the filling material is inserted). With respect to claim 32, Goehlich discloses the method of filling said insulating material (3) into said cavity comprises the steps of filling an insulating filler (3.1) and an insulating compound (3.2). With respect to claim 33, Goehlich discloses

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the method of placing said volume change compensation member (1) is carried out after the step of filling said insulating filler (3, i.e. air exist in the opening at 1 after the filling material is inserted). With respect to claim 36, Goehlich discloses a method of terminating an electrical cable (CA) comprising a termination (OT) comprises an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58), wherein the volume change compensation member (air) is a hollow body (1). With respect to claim 37, Goehlich discloses a method of terminating an electrical cable (CA) comprising a termination (OT) comprises

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an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58), wherein the volume change compensation member (air) is a compressible body (1). With respect to claim 39, Goehlich discloses that method comprising the step of selecting the predetermined volume of the volume change compensation member (1) depending on the temperature of the insulating material (3, Col 4, lines 41-58). With respect to claim 40, Goehlich discloses the method of selecting the predetermined volume of the volume change compensation member (1) depending on the ambient temperature range of the area where said

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termination has to be installed (Col 4, lines 5-25). With respect to claim 41, Goehlich discloses the method comprising the step of removing the volume change compensation member (1) after the step of filling said insulating material (3) into said cavity (i.e. after the termination is placed in the field and the termination heats up the insulation material will expand into the open space thereby removing the air from the termination). With respect to claim 42, Goehlich discloses a termination of an electrical cable (CA) comprising: an outer insulator body member (2); a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, comprising: a volume change compensation member (1) having a predetermined volume to ensure the accommodation of said volume expansions, wherein the volume change compensation member (1) is located in a cavity in an area of non critical electrical field (Col 4, lines 40-58). With respect to claim 43, Goehlich discloses that the volume change compensation member (1) compensates the volume expansions of the insulating material (3) by changing its own volume e after the termination is placed in the field and the termination heats up the insulation material will expand into the open space thereby removing the air from the termination). With respect to claim 44, Goehlich discloses that an electrical cable (CA) comprising a termination (OT) comprises an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to

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be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58), wherein the volume change compensation member (air) is a compressible body (1), wherein the volume change compensation member (1, air) is compressible. With respect to claim 46, Goehlich discloses an electrical cable (CA) comprising a termination (OT) comprises an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said

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cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58), wherein the volume change compensation member (air) is a compressible body (1), wherein the volume change compensation member (1) is a hollow void (i.e. hollow body member). With respect to claim 49, Goehlich discloses that the volume change compensation member (1) is placed in the upper part of the termination (Fig 2). With respect to claim 54, Goehlich discloses that the hollow body (1) has an outer skin (rim of 2) and a compressible interior space (Fig 2). With respect to claim 55, Goehlich discloses that the compressible interior space (at 1) is filled with gas (i.e. air, Fig 2). With respect to claim 58, Goehlich discloses that the termination (Fig 2) further comprises means (4) for controlling stress concentrations (Col 7, lines 5-10). With respect to claim 59, Goehlich discloses that method comprising the step of selecting the predetermined volume of the volume change compensation member (1) depending on the temperature of the insulating material (3,

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Col 4, lines 41-58). With respect to claim 40, Goehlich discloses the method of selecting the predetermined volume of the volume change compensation member (1) depending on the ambient temperature range of the area where said termination has to be installed (Col 4, lines 5-25). With respect to claim 41, Goehlich discloses the method comprising the step of removing the volume change compensation member (1) after the step of filling said insulating material (3) into said cavity (i.e. after the termination is placed in the field and the termination heats up the insulation material will expand into the open space thereby removing the air from the termination).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 34-35, 38, 45, 47-48, 50-53, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goehlich (Pat Num EP 1170846) in view of Abisso et al (Pat

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Num 6,235,992, herein referred to as Abisso). Goehlich discloses a method of building a termination of an electrical cable (CA) (CA) (Fig 2) wherein the cost of manufacturing the outdoor termination and the amount of maintenance work can be reduced (abstract). Specifically, with respect to claims 34-35, 38, 47-48, 50-53, and 56, Goehlich discloses an electrical cable (CA) comprising a termination (OT) comprises an outer insulator body (2), a substantially longitudinally extended interior member (at 5) comprising said electrical cable (CA) to be terminated, said cable (CA) comprising a conductor (5.1) for carrying load; an insulating material (3) filled in a cavity between said outer insulator body (2) and said interior member (at 5); and means (air not numbered) for accommodating the volume expansions of said insulating material (3) within said cavity, the method comprising the steps of: creating said cavity by introducing said interior member (at 5) into said outer insulator body (2); filling said insulating material (3) into said cavity (Col 9, lines 10-38); sealing said termination (Col 8, lines 45-58); and placing a volume change compensation member (1, air) into said cavity, wherein the volume change compensation member (1) is capable of maintaining a compensating volume in a cavity in an area of non critical electrical field as the insulating material is introduced into the cavity (all of the claimed structure is taught and therefore the prior art reference has to perform the same functions as the claimed invention), wherein said volume change compensation member (1, air) having a predetermined volume to accommodate volume expansions of said insulating material (3) within said cavity (Col 4, lines 54-58).

However, Goehlich doesn't specifically disclose the volume change compensation member being a solid body (claims 34 & 48), nor the volume change compensation member is a foam body (claims 35 & 45), nor the said volume change compensation member is an inflatable body (claims 38 & 47), nor the foam body being electrically insulating or semi-conducting (claim 50), nor the foam body being closed cell material (claim 51), nor the foam body containing encapsulating chemicals (claim 52), nor the foam body containing water absorbing materials (claim 53), nor the foam body being inflated with gas (claim 56).

Abisso teaches an electrical device (Figs 1-3) for medium and high voltage transmission having improved chemical and physical characteristics such as dielectric strength and compressibility (Col 1, lines 10-15). Specifically, with respect to claims 34 & 48, Abisso discloses an insulator (100) for usage with a cable termination (Col 1, lines 15-27), wherein the insulator (100) comprises an interior compressible filler (4, i.e. volume compensation member), wherein the volume change compensation member (4) may be a solid body (i.e. silicone, Col 4, lines 1-35, after curing from a liquid state, Col 4, lines 1-35). With respect to claim 35 & 45, Abisso teaches that the volume change compensation member (4, i.e. silicone) may be a foam body (Col 1, lines 45-50). With respect to claims 38 & 47, Abisso teaches that the volume change compensation member (4) may be an inflatable body, containing microspheres (Col 2, lines 58-67). With respect to claim 50, Abisso teaches that the foam body (i.e. silicone) is electrically insulating (Col 4, lines 1-15). With respect to claim 51, Abisso teaches that the foam body (i.e. silicone) is a closed cell material (i.e. solid foam, Col 1, lines

48-50). With respect to claim 52, Abisso teaches that the foam body (4) may contain encapsulating chemicals (i.e. organosilicon crosslinker, Col 3, lines 15-16). With respect to claim 53, Abisso teaches that the foam body (4) may contain water absorbing materials (i.e. microspheres, Col 2, lines 62-67). With respect to claim 56, Abisso teaches that the foam body (4) may be semisolid, thereby resulting in air being placed in the foam (i.e. inflated with gas, Col 1, lines 48-50).

With respect to claims 34-35, 38, 45, 47-48, 50-53, and 56, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the termination of Goehlich to comprise the volume compensation member as taught by Abisso because Abisso teaches that such a configuration provides an electrical device (Figs 1-3) commonly utilized with medium and high voltage transmission having improved chemical and physical characteristics such as dielectric strength and compressibility (Col 1, lines 10-15) and improves compressibility in order to be applicable within a wide functioning temperature range without requiring compensating volumes (Col 2, lines 25-30).

Response to Arguments

8. Applicant's arguments filed December 6, 2006 have been fully considered but they are not persuasive. Specifically, the applicant argues the following:

- A) Goehlich doesn't disclose the volume compensation member being capable of maintaining a compensating volume in the cavity in a area of

non critical electrical field as the insulating material is introduced into the cavity.

With respect to argument A, the examiner respectfully traverses. Firstly, it should be stated that the courts have been consistent that the manner of operating a structure device doesn't differentiate the claimed structure for the prior art structure, if the prior art structure teaches all of the structural limitations of the claim. Specifically, the MPEP teaches:

**MANNER OF OPERATING THE DEVICE DOES NOT DIFFERENTIATE
APPARATUS CLAIM FROM THE PRIOR ART**

A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987) (The preamble of claim 1 recited that the apparatus was "for mixing flowing developer material" and the body of the claim recited "means for mixing ..., said mixing means being stationary and completely submerged in the developer material". The claim was rejected over a reference which taught all the structural limitations of the claim for the intended use of mixing flowing developer. However, the mixer was only partially submerged in the developer material. The Board held that the amount of submersion is immaterial to the structure of the mixer and thus the claim was properly rejected.).

Secondly, the courts have also been consistent that functional language doesn't differentiate the claimed invention from the prior art, if all of the structural limitations of the claimed invention are disclosed in the prior art references. Specifically, the MPEP teaches:

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For a discussion of case law which provides guidance in interpreting the functional portion of means-plus-function limitations see MPEP § 2181 - § 2186.

APPARATUS CLAIMS MUST BE STRUCTURALLY DISTINGUISHABLE
FROM THE PRIOR ART

>While features of an apparatus may be recited either structurally or functionally, claims< directed to >an< apparatus must be distinguished from the prior art in terms of structure rather than function. >In re Schreiber, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997) (The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus because the limitations at issue were found to be inherent in the prior art reference); see also In re Swinehart, 439 F.2d 210, 212-13, 169 USPQ 226, 228-29 (CCPA 1971);< In re Danly, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." Hewlett-Packard Co. v. Bausch & Lomb Inc., 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990) (emphasis in original).

Based on the above guidelines, the examiner respectfully submits, that all of the structural limitations of the claimed invention are disclosed in the prior art reference and therefore must be capable of performing the same functions and be utilized in the same manner. If some different structure is responsible for performing the function of the claimed invention, then the applicant has to claim the different structure to differentiate the claimed invention from the prior art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (571)-272-1978. The examiner can normally be reached on M-F 8:30am-6:00 pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (571) 272-2800 ext 31. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

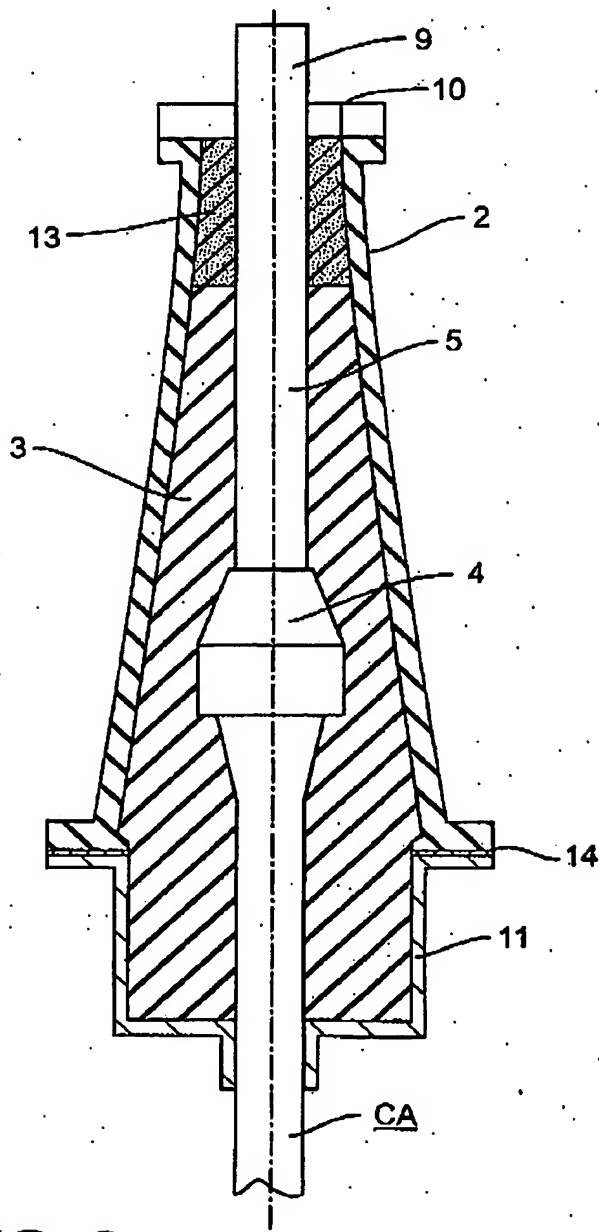
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William H. Mayo III
Primary Examiner
Art Unit 2831

WHM III
June 22, 2006

Replacement Sheet

**FIG. 3**